

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 1245  
Finance Committee Substitute Adopted 7/14/93

Short Title: Intangibles Tax Exemption.

(Public)

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Sponsors:

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Referred to:

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June 21, 1993

A BILL TO BE ENTITLED

AN ACT TO EXEMPT FROM THE INTANGIBLES TAX STOCKS THAT ARE NOT PUBLICLY TRADED, TO MAKE TECHNICAL CHANGES, AND TO AUTHORIZE THE LEGISLATIVE RESEARCH COMMISSION TO STUDY THE INTANGIBLES TAX AND RELATED ISSUES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-203 reads as rewritten:

**"§ 105-203. Shares of stock.**

All shares of stock (including shares and units of ownership of mutual funds, investment trusts, and investment funds) owned by residents of this State or having a business, commercial, or taxable situs in this State on December 31 of each year, with the exception herein provided, shall be subject to an annual tax, which is hereby levied, of twenty-five cents (25¢) on every one hundred dollars (\$100.00) of the total fair market value of the stock on December 31 of each year less the proportion of the value that is equal to:

- (1) In the case of a taxpayer that is a corporation, the proportion of the dividends upon the stock deductible by the taxpayer in computing its income tax liability under G.S. 105-130.7 without regard to the fifteen thousand dollar (\$15,000) limitation under G.S. 105-130.7; and
- (2) In the case of a taxpayer that is not a corporation, the proportion of the dividends upon the stock that would be deductible by the taxpayer, if the taxpayer were a corporation, in computing its income tax liability under the provisions of G.S. 105-130.7(1), (2), (3), (3a), and (5),

1 without regard to the fifteen thousand dollar (\$15,000) limitation under  
2 G.S. 105-130.7.

3 This tax does not apply to shares of stock in building and loan associations or  
4 savings and loan associations that pay a tax under Article 8D of this Chapter, nor to  
5 shares of stock owned by any corporation that has its commercial domicile in North  
6 Carolina, where the corporation owns more than fifty percent (50%) of the outstanding  
7 voting stock.

8 This tax does not apply to units of ownership in an investment trust, the corpus of  
9 which is composed (i) entirely of obligations of this State or (ii) entirely of  
10 obligations of the United States and of this State, at least eighty percent (80%) of the  
11 fair market value of which represents obligations of this State. For the purpose of this  
12 paragraph, 'State' includes the State of North Carolina, political subdivisions of this  
13 State, and agencies of these governmental units; 'United States' includes the United  
14 States and its possessions, and the District of Columbia; 'obligations' includes bonds,  
15 notes, and other evidences of debt. In order for the exemption provided in this  
16 paragraph to apply, the trustees of an investment trust must provide the Secretary of  
17 Revenue, in the form required by the Secretary, not later than December 31 of the year  
18 with respect to which the exemption applies, information sufficient to establish the  
19 applicability of this exemption.

20 Indebtedness incurred directly for the purchase of shares of stock may be deducted  
21 from the total value of those shares if the specific shares of stock so purchased are  
22 pledged as collateral to secure the indebtedness; however, only so much of the  
23 indebtedness may be deducted as is in the same proportion as the taxable value of the  
24 shares of stock is to the total value of the shares of stock.

25 Shares of corporate stock that are not (i) publicly traded on a securities exchange  
26 or board of trade or (ii) publicly traded over-the-counter by registered brokers or  
27 securities dealers are exempt from this tax. This exemption applies only to corporate  
28 stock held directly by the taxpayer, and does not apply to shares or units of ownership  
29 of mutual funds, investment trusts, or investment funds, or to similar securities."

30 Sec. 2. G.S. 105-216 is repealed.

31 Sec. 3. The Legislative Research Commission is authorized to study the  
32 intangibles tax, the decision of the North Carolina Court of Appeals and any pending  
33 action in the case Fulton Corp. v. Justus, No. 91 CVS 4478 (N.C.Ct.App. June 15,  
34 1993), and any related issues of State and local taxation. The Secretary of Revenue and  
35 the Attorney General shall cooperate with the Commission in its study. The  
36 Commission shall make a final report of its study and any recommendations to the 1994  
37 Session of the 1993 General Assembly.

38 Sec. 4. Section 1 of this act becomes effective beginning with the 1994 tax  
39 year; the remainder of this act is effective upon ratification.